

APPEAL NO. 031021  
FILED MAY 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was originally held on November 14, 2001. In that case the hearing officer determined that the respondent's (claimant) compensable (right hand) injury extends to and includes carpal tunnel syndrome (CTS) of the right hand and that the claimant had disability from April 16 through October 31, 2001. An average weekly wage issue was resolved by stipulation. The appellant (carrier) appealed, and the claimant responded. In Texas Workers' Compensation Commission Appeal No. 013178, decided February 4, 2002, the Appeals Panel noted that the appeal file presented for review did not have an audiotape or transcript of the proceedings, nor any of the exhibits, and remanded for reconstruction of the record.

At a hearing on remand held on March 18, 2003, with (hearing officer) again presiding as the hearing officer, the hearing officer summarized what had occurred, and noted that the carrier, to its credit, had proceeded to pay benefits pursuant to the original decision. There apparently was a request for a continuance and since the claimant was being paid benefits he did not have a great sense of urgency. At the remand hearing the parties agreed that the Statement of the Evidence in the original decision and order accurately stated the evidence (subject to a clarification made by the carrier as set out in the hearing officer's decision on remand). Copies of the original exhibits were offered and admitted into evidence and the hearing officer, with agreement of the parties, reissued his original decision and order.

The carrier appealed, apparently adopting its original appeal, appealing the extent-of-injury issue, citing the reports of a number of doctors, and appealing the disability issue as being against the great weight of the evidence. The claimant responded, urging affirmance.

DECISION

Affirmed.

The claimant was a driver/guard for an armored car company. It is undisputed that the claimant sustained a compensable injury when a heavy armored car door slammed closed on his right hand. At issue is whether the injury extends to traumatic CTS and the length of disability as defined in Section 401.011(16).

The carrier's appeal cites information from several of the medical reports regarding the extent of the hand injury and whether the claimant had been returned to the modified duty as a driver/guard, which required the possible use of a firearm, or whether the duty was just as a driver, which did not require carrying a weapon. The

carrier contends that the hearing officer “ignored” the medical evidence and testimony of its witnesses and that the claimant’s “right hand was not involved” as alleged.

The testimony and medical evidence were in conflict in regard to the disputed issues and the evidence was sufficient to support the determinations of the hearing officer. The 1989 Act provides that the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer’s decision and order.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN  
ACE USA  
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200  
IRVING, TEXAS 75063.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Panel  
Manager/Judge

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Robert W. Potts  
Appeals Judge